

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

NEXTGEAR CAPITAL, INC.,

Plaintiff,

v.

ANTONIO L. GUTIERREZ; PAUL
GUTIERREZ,

Defendants.

:
:
:
:
:
:
:
:
:
:
:
:
:

CIVIL ACTION

CASE NO.: 3:18-cv-01617

(Judge Mannion)

ELECTRONICALLY FILED

**SUPPLEMENTAL DECLARATION OF
NICHOLAS M. GAUNCE, ESQ.**

I, Nicholas M. Gaunce, Esq., of full age, hereby declare:

1. I am an attorney-at-law of the Commonwealth of Pennsylvania, along with being admitted to the bar of the above court. I am a member of the law firm of Eckert Seamans Cherin & Mellott, LLC, attorneys for the plaintiff, NextGear Capital, Inc. (“NextGear”). I have worked as co-counsel in regard to NextGear’s claims against Antonio Gutierrez, The Luxury Haus, Inc. (“LHI”), and now Paul Gutierrez since 2016. I make this declaration based upon personal knowledge and in support of NextGear’s current motion.

2. Attached as Exhibit “J” is a March 29, 2016 letter procured from DiTech Financial, LLC (“DiTech”). This document was provided in response to a subpoena served by the undersigned in this action.

3. Attached as Exhibit “K” is a copy of a foreclosure complaint filed by DiTech’s successor-in-interest, Green Tree Servicing, LLC (“Green Tree”). This document was provided in response to a subpoena that was served by the undersigned.

4. Attached as Exhibit “L” is a true and complete copy of a consumer explanation letter. This document was provided in response to a subpoena that was served by the undersigned.

5. Attached as Exhibit “M” is a copy of a contract provided by Wells Fargo Bank, N.A. This document was produced in response to a subpoena that was served by the undersigned.

6. Attached as Exhibit “N” is a copy of a real estate contract as to the Property¹ that was provided by DiTech in response to a subpoena served by the undersigned in this action.

7. Attached as Exhibit “O” is a copy of a February 9, 2016 letter that was provided by DiTech in response to a subpoena served by the undersigned in this action.

8. Attached as Exhibit “P” is a copy of a short sale affidavit provided by DiTech in response to a subpoena served by the undersigned in this action.

9. Attached as Exhibit “Q” is a copy of a wire transfer document provided by DiTech in response to a subpoena served by the undersigned in this action.

10. Attached as Exhibit “R” is a copy of a recorded mortgage satisfaction provided by DiTech in response to a subpoena served by the undersigned in this action.

11. Attached as Exhibit “S” are copies of the *McKinley* and *Broksy* decisions cited in NextGear’s reply brief.

Pursuant to 28 *U.S.C.* § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

By: /s/ Nicholas M. Gaunce
Nicholas M. Gaunce

Dated: November 14, 2019

¹ The capitalized term “Property” refers to the property that is the subject of this action.